



ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OGC-2013-0484; FRL-9835-6]

Proposed Settlement Agreement, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement agreement; request for public comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended (“CAA” or the “Act”), notice is hereby given of a proposed settlement agreement to address a lawsuit filed by Communities for a Better Environment, California Communities Against Toxics, Desert Citizens Against Pollution, Natural Resources Defense Council, and Physicians for Social Responsibility-Los Angeles (collectively “Petitioners”) in the United States Court of Appeals for the Ninth Circuit: Communities for a Better Environment, et al. v. EPA, No. 12-71340, (9th Cir.). On April 30, 2012, Petitioner filed a petition for review challenging EPA’s final action to approve the state implementation plan (SIP) revisions submitted by California to provide for attainment of the 1997 8-hour ozone national ambient air quality standard in the Los Angeles-South Coast area (“South Coast”). The proposed settlement agreement establishes a deadline for EPA to take action on subsequently submitted SIP revisions for the South Coast.

DATES: Written comments on the proposed settlement agreement must be received by [insert date 30 days after publication date].

ADDRESSES: Submit your comments, identified by Docket ID number EPA-HQ-OGC-2013-0484, online at www.regulations.gov (EPA’s preferred method); by e-mail to oei.docket@epa.gov; by mail to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave.,

NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD-ROM should be formatted in Word or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

FOR FURTHER INFORMATION CONTACT: Jan Tierney, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone: (202) 564-5598; fax number (202) 564-5603; email address: tierney.jan@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Additional Information about the Proposed Settlement Agreement

The proposed settlement agreement would resolve a lawsuit seeking to overturn EPA's final action to approve SIP revisions submitted by California to provide for attainment of the 1997 8-hour ozone national ambient air quality standard in the South Coast. 77 FR 12674 (March 1, 2012). The proposed settlement agreement requires that no later than August 13, 2014, EPA shall sign a notice or notices of the Agency's final action or actions under Section 110(k) of the CAA on certain SIP revisions submitted by California on February 13, 2013, including a new attainment demonstration plan for the 1-hour ozone standard in the South Coast and new demonstrations intended to comply with Section 182(d)(1)(A) of the CAA, 42 U.S.C. 7511a(d)(1)(A), for the 1-hour ozone and 1997 8-hour ozone standards. Thereafter, EPA shall send the notice(s) to the Office of the Federal Register for review and publication. After EPA fulfills its obligations under the agreement, the Petitioners shall dismiss this matter, but Petitioners reserve any rights they may have to challenge EPA final action or actions on the

above described SIP revisions.¹ If EPA does not take action by the deadline, then Petitioners' sole remedy under the proposed agreement shall be the right to request that the Ninth Circuit lift the stay of proceedings and establish a schedule for briefing and oral argument.

For a period of thirty (30) days following the date of publication of this notice, the Agency will accept written comments relating to the proposed settlement agreement from persons who were not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed settlement agreement if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines that consent to this settlement agreement should be withdrawn, the terms of the agreement will be affirmed.

II. Additional Information About Commenting on the Proposed Settlement Agreement

A. How Can I Get A Copy Of the Settlement Agreement?

The official public docket for this action (identified by Docket ID No. EPA-HQ-OGC-2013-0484) contains a copy of the proposed settlement agreement. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW, Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OEI Docket is (202) 566-1752.

An electronic version of the public docket is available through www.regulations.gov.

¹ Four of the five Petitioners have also noticed an appeal from dismissal of Physicians for Social Responsibility-Los Angeles v. EPA, No. 2:11-cv-05885-GW-SS, in the United States District Court for the Central District of California, currently docketed in the Ninth Circuit as Case No. 12-56175. Under the proposed settlement agreement, the four petitioners who are appellants in that case shall dismiss Physicians for Social Responsibility-Los Angeles v. EPA, No. 12-56175, upon receipt of written notice from EPA that the proposed settlement agreement is final.

You may use www.regulations.gov to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select “search”.

It is important to note that EPA’s policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing online at www.regulations.gov without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in the electronic public docket. EPA’s policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA’s electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

B. How and To Whom Do I Submit Comments?

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked “late.” EPA is not required to consider these late comments.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment and with any disk or CD ROM you submit. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment

due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Use of the www.regulations.gov website to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment. In contrast to EPA's electronic public docket, EPA's electronic mail (e-mail) system is not an "anonymous access" system. If you send an e-mail comment directly to the Docket without going through www.regulations.gov, your e-mail address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: July 11, 2013.

Lorie J. Schmidt,
Associate General Counsel.

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